

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

JOHNNY TIPPINS,

Plaintiff,

Case No. 16-cv-10140

v

Honorable Thomas L. Ludington

NWI-1 Inc. et al.,

Defendants.

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**ORDER DENYING MOTION FOR CERTIFICATE OF APPEALABILITY**

Plaintiff Johnny Tippins, a prisoner proceeding *pro se*, initiated this action by filing suit against Defendants NWI-1, Inc., LePetomane II, Inc., LePetomane III, Inc., and Velsicol Chemical, LLC in Gratiot County Circuit Court on October 23, 2015. Plaintiff alleges that Defendants are responsible for injuries he suffered as a result of drinking contaminated water while incarcerated in a state prison in St. Louis, Michigan from 2004 to 2007. Because Plaintiff's action did not comply with the relevant statutes of limitations, his complaint was dismissed with prejudice on August 12, 2016. *See* ECF Nos. 30, 31.

On August 26, 2016 Plaintiff Tippins filed a motion for relief from judgment under Federal Rule of Civil Procedure 60(b) seeking to amend his complaint in order to assert a claim under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601-75. *See* ECF No. 32. Because Tippins did not have standing to assert a CERCLA claim, and because even asserting such a claim would not remedy his statute of limitations issues, that motion was denied on October 3, 2016. *See* ECF No. 35. On October 25, 2016 Tippins filed a motion for reconsideration, again arguing that he should be permitted to

amend his complaint to state a claim under CERCLA. That motion was denied by this Court on October 28, 2016. *See* ECF No. 37.

In response, Tippins filed a notice of appeal and a motion for a certificate of appealability. *See* ECF No. 38. Tippins is a civil litigant who paid the required district court filing fee, and, unlike a prisoner pursuing habeas corpus relief, does not require a certificate of appealability. *See Alexander v. Lucas*, 259 Fed. App'x. 145, 149 n. 2 (10th Cir. 2007); *Stevens v. Joshua Buskirk, P.A.*, 2014 WL 5088893, at \*1 (E.D. Mich. Oct. 8, 2014). In such a case a notice of appeal alone is sufficient to allow an appeal to proceed as long as it complies with Federal Rule of Appellate Procedure 3(c) and (e). Plaintiff's motion for a certificate of appealability will therefore be denied.

Accordingly, it is **ORDERED** that Plaintiff Tippins's motion for a certificate of appealability, ECF No. 38, is **DENIED**.

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

Dated: December 2, 2016

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on December 2, 2016.

s/Michael A. Sian  
MICHAEL A. SIAN, Case Manager